

OCT 02 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN PINA COLIN; et al.,

Petitioners,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 06-71179

Agency Nos. A70-194-444
A70-203-363

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted: September 27, 2007 ***

Before: PREGERSON, REINHARDT, and TASHIMA, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Juan Pina Colin and Amelia Hernandez Sanchez, natives and citizens of Mexico, petition for review of the denial of cancellation of removal.

We lack jurisdiction to review the IJ's discretionary determination that petitioners failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 890 (9th Cir. 2003). The IJ's denial of a continuance pending the outcome of petitioners' efforts to obtain custody over their United Citizen granddaughter did not amount to clear abuse. *See Rios-Berrios v. INS*, 776 F.2d 859, 862 (9th Cir.1985) (stating that "decision to grant or deny continuances is in the sound discretion of the trial judge and will not be overturned except on a showing of clear abuse"). Petitioners sought the continuance because they believed that their "adoption of their two year old grandchild . . . should afford them another qualifying [U.S. citizen] relative." However, as this court recently held, a grandchild is not a qualifying relative for purposes of cancellation of removal and, though upon completion of the adoption process, Petitioners could have argued their grandchild met the definition of "child" under 8 U.S.C. § 1101(b)(1)(E)(i), "we are aware of no law permitting an IJ or the BIA to stay removal proceedings pending an adoption without the government's consent." *Moreno-Morante v. Gonzales*, 490 F.3d 1172, 1176 (9th Cir. 2007).

PETITION FOR REVIEW DISMISSED IN PART, DENIED IN PART.